

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )  
 )  
Ryoji NOMURA et al. )  
 )  
Serial No.: 10/590,568 )  
 )  
Filed: August 22, 2006 )  
 )  
For: Light Emitting Element And Light )  
Emitting Device Having The Light )  
Emitting Element (as amended) )  
 )  
Examiner: Dawn L. Garrett )  
 )  
Art Unit: 1794 )  
 )  
Confirmation No.: 8574 )

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE B (AFTER FINAL)**

Applicants have the following response to the Final Rejection of August 26, 2009.

**Claim Rejections – 35 USC §102**

In the Final Rejection, the Examiner rejects Clams 1-8 under 35 USC §103(a) as being unpatentable over Nomura et al. (US 2005/0225236). This rejection is respectfully traversed.

It is respectfully submitted that Nomura is not prior art to the present application.

More specifically, Nomura was published on October 13, 2005 based on a U.S. filing date of March 24, 2005.

The present application was filed on August 22, 2006 as the US National stage of PCT application PCT/JP2005/02224 which has an international filing date of November 28, 2005 and claims priority to Japanese patent application serial number 2004-347688 filed November 30, 2004. Applicants are preparing a verified English translation of Japanese patent application serial number 2004-347688 and will submit it as soon as it is finished.

Hence, as the foreign priority filing date of the present application is prior to the U.S. filing date of Nomura, Nomura is not prior art to the present application.

Accordingly, it is respectfully requested that this rejection be withdrawn.

#### Conclusion

It is respectfully submitted that the present application is in a condition for allowance and should be allowed.

If any fee should be due for this response, please charge our deposit account 50/1039.

Favorable reconsideration is earnestly solicited.

Dated: November 25, 2009

Respectfully submitted,

/Mark J. Murphy/

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